

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.4525 of 2000

Between:

Andhra Pradesh State Wakf Board
Rep. by its Chief Executive Officer
Office of Manoranjan Complex,
M.J.Road, Hyderabad.

Petitioner

And

1. The Commissioner,
Adoni Municipality,
Adoni.
2. A.Shankara Rao,
3. A.Indumathi.

Respondents

ORDER:

1 This petition is filed questioning the action of the first

respondent in giving permission to the respondents 2 and 3 to carry on with the construction in a site, which according to the petition is a Wakf site. Earlier writ petition No.17083 of 1994 was filed by some villagers of Adoni town questioning the inaction on the part of the first respondent and State Government and others in not protecting Ac.0-27 cents of land in S.No.46/B of Adoni from encroachers. It was dismissed by a learned single Judge on 08.11.1996. Aggrieved thereby the writ petitioners filed an appeal in W.A.No.1411 of 1996. A division bench while allowing the said appeal remitted the case for fresh hearing and directed the first respondent to maintain status-quo till the disposal of the writ petition. By his order dated 24.06.1998 a learned single Judge directed the petitioner, who is claiming the property of Ac.0-27 cents in S.No.46/B of Adoni Town as its own, to institute a suit in the Tribunal constituted under Section 6(1) of the Wakf Act 1995 for declaration of its title thereto and directed status-quo as on that date being maintained until that Tribunal passes an appropriate order either by way of interim arrangement or by way of decree, in the suit to be instituted by the petitioner.

2 The contention of the learned counsel for the petitioner is that petitioner filed such a suit before the Tribunal for a declaration of its title to the aforesaid land and that the petitioner also obtained an interim order directing respondents 2 and 3 not to proceed with the construction as per the agreement entered into with them by the first respondent-Municipality, and that respondents 2 and 3 preferred a revision to this Court questioning that order and obtained stay of the

operation of the said order of the Tribunal, and as they were proceeding with the construction in the disputed site, on the strength of the work order given to them by the first respondent, the petitioner preferred this writ petition seeking a direction to declare the action of the first respondent in granting permission to respondents 2 and 3 in the disputed site is illegal and arbitrary.

3 Heard the learned counsel for the first respondent. No representation on behalf of respondents 2 and 3.

4 Petitioner who is trying to set at naught the order of stay granted in the revision petition preferred by respondents 2 and 3 to this Court against the interim order of the Tribunal cannot be granted the relief sought in this petition because it amounts to entertaining an appeal in disguise against the interim order granted in the revision preferred by respondents 2 and 3 by a learned Judge of this Court. If the petitioner, who obtained an interim order from the Tribunal, felt aggrieved by the order of stay granted by this Court in the revision petition preferred by respondents 2 and 3 against that interim order, ought to have filed a petition for vacating the stay.

5 The learned counsel for the petitioner now states that a petition for vacating the stay was already filed. Filing a petition for vacating the stay and simultaneously filing a writ petition for obtaining the relief claimed in the vacate stay petition is but an abuse of process of Court. Petitioner who ought to have prayed for early hearing of his vacate stay petition should not have invoked writ jurisdiction of this court to set at naught the order of a learned Judge of this Court passed in exercise

of the revisional jurisdiction.

5 So this petition is dismissed. No costs.

CYS,
J.

01-10-2007
kvsn